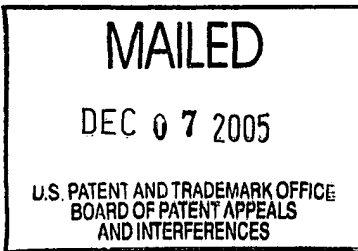


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CHEISAN J. YUE,  
MOHAMMET A. FATHIMULLA, ERIC E. VOGT  
and  
WILLIAM L. LARSON

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Application 10/040,395

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on October 31, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

An examination of the Image File Wrapper (IFW) indicates that an Information Disclosure Statement (IDS) was filed May 16, 2003. It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their submission did not meet the criteria set

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forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

In addition, an Examiner's Answer was mailed August 2, 2005. The Answer is not in compliance with the headings set forth in the new rules under 37 CFR § 41.37(c) because it does not contain a heading for "Summary of Claimed Subject Matter" (which replaces the old heading "Summary of Invention"). Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner:

1) for consideration of the IDS filed May 16, 2003 and appropriate notification to appellants regarding the Primary Examiner's decision;

2) to vacate the Examiner's Answer mailed August 2, 2005 and issue a revised Examiner's Answer in compliance with the new rules which became effective on September 13, 2004;

3) to have a complete copy of any subsequent Examiner's Answer scanned into the IFW; and

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4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

CRAIG R. FEINBERG  
Program and Resource Administrator  
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CRF:psb

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